

AMENDED IN SENATE JUNE 23, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 17, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 561

Introduced by Assembly Member Campos

February 24, 2015

An act to amend Section 1149 of, and to add Sections 1149.3 and 1164.6 to, the Labor Code, relating to agricultural labor relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 561, as amended, Campos. Agricultural labor relations.

(1) The Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 regulates employer-employee relations in agriculture. The act, among other things, prohibits agricultural employers and employees from engaging in unfair labor practices, as defined, and empowers the Agricultural Labor Relations Board to prevent any person from engaging in those practices. The act provides for a general counsel of the ~~board~~, *board* and grants the general counsel final authority with respect to the investigation of charges and *the* issuance and prosecution of complaints regarding unfair labor practices.

This bill would require the board ~~and general counsel, within one year of an order of the board finding liability for a makewhole award, backpay calculation, or other monetary award, to process any compliance decision concerning the award to final board order. to process to final board order all decisions concerning make-whole awards, backpay, and other monetary awards to employees within one~~

year or any board order finding liability for an award. The bill would also make related technical, nonsubstantive changes.

(2) The act grants employees the right to engage in collective bargaining with respect to wages, terms of employment, and other employment conditions, and authorizes employees to elect exclusive bargaining representatives for these purposes. The act, if certain conditions are met, requires the employer and exclusive bargaining representative to engage in mandatory mediation and conciliation of their issues, and authorizes both parties to appeal orders of the board based on this mandatory mediation and conciliation, as specified.

This bill would require an employer who appeals or petitions for a writ of review of any order of the board under the act to post a bond in the amount of the entire economic value of the order, ~~as specified.~~ *specified, and would provide for a portion or the entire amount of the bond to be forfeited under specified conditions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1149 of the Labor Code is amended to
2 read:
3 1149. There shall be a general counsel of the board who shall
4 be appointed by the Governor, subject to confirmation by a
5 majority of the Senate, for a term of four years. The general counsel
6 shall have the power to appoint those attorneys, administrative
7 assistants, and other employees as necessary for the proper exercise
8 of his or her duties. The general counsel of the board shall exercise
9 general supervision over all attorneys employed by the board (other
10 than administrative law officers and legal assistants to board
11 members), and over the officers and employees in the regional
12 offices. The general counsel shall have final authority, on behalf
13 of the board, with respect to the investigation of charges and
14 issuance of complaints under Chapter 6 (commencing with Section
15 1160) of this part, and with respect to the prosecution of those
16 complaints before the board. The general counsel shall have those
17 other duties as the board may prescribe or as may be provided by
18 law. All employees appointed by the general counsel shall perform
19 their duties in an objective and impartial manner without prejudice
20 toward any party subject to the jurisdiction of the board. In case

1 of a vacancy in the office of the general counsel, the Governor is
2 authorized to designate the officer or employee who shall act as
3 general counsel during that vacancy, but no person or persons so
4 designated shall so act either (1) for more than 40 days when the
5 Legislature is in session unless a nomination to fill that vacancy
6 has been submitted to the Senate, or (2) after the adjournment sine
7 die of the session of the Senate in which the nomination was
8 submitted.

9 SEC. 2. Section 1149.3 is added to the Labor Code, to read:

10 1149.3. ~~Within one year of an order of the board finding~~
11 ~~liability for a makewhole award, backpay calculation, or other~~
12 ~~monetary award to employees, the board and general counsel shall~~
13 ~~process any compliance decision concerning the award to final~~
14 ~~board order. The board shall be required to process to final board~~
15 ~~order all decisions concerning make-whole awards, backpay, and~~
16 ~~other monetary awards to employees, within one year of any board~~
17 ~~order finding liability for that award. If the board has already~~
18 ~~made a finding that an employer is liable for a make-whole,~~
19 ~~backpay, or any other monetary award to an employee or~~
20 ~~employees, and a compliance proceeding is necessary to determine~~
21 ~~the specific amount owed by the employer, the board shall be~~
22 ~~required to process to final board order a decision concerning the~~
23 ~~amount or amounts owed within one year of the time that a final~~
24 ~~decision on employer liability has been made by the board. For~~
25 ~~purposes of this section, a final decision on employer liability shall~~
26 ~~be defined as either the date when a board order concerning~~
27 ~~liability becomes final because no appeal was sought or the date~~
28 ~~when a reviewing court dismisses an employer's appeal or decides~~
29 ~~in favor of the board concerning the employer's liability. If an~~
30 ~~employer's liability and compliance proceedings are consolidated,~~
31 ~~the board shall act reasonably and without delay in reaching a~~
32 ~~final decision concerning the liability and amounts owed to~~
33 ~~workers.~~

34 SEC. 3. Section 1164.6 is added to the Labor Code, to read:

35 1164.6. (a) An employer who petitions for a writ of review in
36 the court of appeal or the California Supreme Court or otherwise
37 appeals or seeks to overturn or stay any order of the board under
38 the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor
39 Relations Act of 1975 ~~shall~~ *shall, as a condition to seeking review*
40 *or appeal, post a bond, in the amount of the entire economic value*

1 of the order as determined by the board, to ensure that employees
2 receive the benefits of the order if the employer does not prevail.
3 ~~The board shall reasonably determine the entire economic value~~
4 ~~of the order based on submissions from the parties.~~

5 (b) *The bond shall consist of an appeal bond issued by a licensed*
6 *surety or a cash deposit with the board in the amount of the order,*
7 *decision, or award. The employer shall provide written notification*
8 *to all of the parties of the posting of the bond. The bond shall be*
9 *on the condition that, if any judgment is entered against the*
10 *employer, the employer shall pay the amount owed pursuant to*
11 *the judgment, and if the appeal is withdrawn or dismissed without*
12 *entry of judgment, the employer shall pay the amount owed*
13 *pursuant to the order, decision, or award of the board unless the*
14 *parties have executed a settlement agreement for payment of some*
15 *other amount, in which case the employer shall pay the amount*
16 *that the employer is obligated to pay under the terms of the*
17 *settlement agreement. If the employer fails to pay the amount owed*
18 *within 10 days of entry of the judgment, dismissal, or withdrawal*
19 *of the appeal, or the execution of a settlement agreement, a portion*
20 *of the bond equal to the amount owed, or the entire bond if the*
21 *amount owned is equal to or exceeds the bond, is forfeited to the*
22 *employee or employees.*

23 (c) *With respect to an order of the board issued pursuant to*
24 *mandatory mediation and conciliation procedures, the board shall*
25 *reasonably determine the entire economic value of the terms,*
26 *conditions, and benefits of the ordered collective bargaining*
27 *agreement based upon submissions from the parties and a*
28 *recommended finding from the assigned mediator in the case.*